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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,136	12/12/2003	Dwight Myers	0027966.00002	1913

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EXAMINER

LE, HUYEN D

ART UNIT

PAPER NUMBER

3751

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/735,136

Applicant(s)

MYERS, DWIGHT

Examiner

Huyen Le

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/12/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Enomoto (6,018,825).

The Enomoto reference discloses a commode seat (Figures 4a, 4b) comprising a base plate 25 hingedly connected to a rear portion of a rim of bowl of the toilet (base plate integrally shown with cover 5 in Figure 1B, also see col. 7, lines 1-15); and first and second arm plates 4 extending from the base plate 25 along the rim; wherein one of the arm plates 4 is connected to the base plate 25 via a hinge 19 and is movable between a closed position at which the arm plate is aligned with the rim and an open position at which the arm plate is laterally displaced from the rim to provide an opening of substantially greater dimension between the rim and a thigh of a user.

Regarding claim 2, the hinge 19 includes a washer member (shown in Figure 4b) constituting a disk hinge.

Regarding claim 11, (without any further disclosure of specific structure of the post hinge), the hinge is post hinge 21, 22 as shown in another embodiment in Figures 5a and 5b.

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Regarding claim 12, the connection between the base plate and the arm plates is configured to include a cover 5 to inhibit pinching when the arm plate is moved from the open position to the closed position.

3. Claims 1 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Joyce et al (2,2266,641).

The Joyce et al reference discloses a commode seat comprising a back portion of the seat 1 constituting a base plate hingedly connected to a rear portion of a rim of bowl of the toilet (Figs. 1, 2); and first and second arm plates 2,3 extending from the base plate along the rim 15; wherein one of the arm plates 2,3 is connected to the base plate via a hinge 5,6 and is capable of being moved between a closed position at which the arm plate is aligned with the rim and an open position at which the arm plate is laterally displaced from the rim to provide an opening of substantially greater dimension between the rim and a thigh of a user.

Regarding claim 10, the seat further comprises an underside portion along the inner rim of the plate 2 constituting a gripping location. Any underside portion along the inner rim of the plate 2 or 3 is capable of being used as a gripping location.

Regarding claim 11, (without any further disclosure of specific structure of the post hinge), the hinge is post hinge 5,6 as shown in Figures 1-3.

Regarding claim 12, the connection between the base plate and the arm plates is configured to inhibit pinching when the arm plate is moved from the open position to the closed position.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Enomoto (6,108,825) in view of Moore (2,104,714).

The Enomoto reference discloses a commode seat as described above.

Although the Enomoto reference does not disclose a foot that can support the arm plate both upon the toilet rim in vertical and lateral manner, attention is directed to the Moore reference which discloses another toilet seat comprising a foot 21 being used as a resilient bumper to support the arm plate 8 upon the rim a (Fig. 4).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a resilient bumper on the Enomoto toilet seat, as for example, taught by the Moore reference in order to support the arm plate of the seat upon the toilet rim in vertical and lateral manner.

Allowable Subject Matter

6. Claims 3-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Dillard and Moor '714 references show adjustable toilet seats.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 703-306-5504. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 703-308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Huyen Le
Examiner
Art Unit 3751

HL
July 21, 2004